

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JEREMY GOLLADAY,

Plaintiff,

v.

No. 19-cv-1047 GBW/SMV

**RICHARD RINCON, ERIC SILVA,
and CHEYENNE BUNKER,**

Defendants.

SECOND ORDER TO SHOW CAUSE

THIS MATTER is before the Court on its Order to Show Cause [Doc. 11] (“OSC”), issued on January 23, 2020. Plaintiff and his counsel, Lauren E.A. Truitt, failed to participate in the Joint Status Report and Provisional Discovery Plan (“JSR”). Accordingly, the Court ordered Ms. Truitt to show cause why she should not be sanctioned. Ms. Truitt violated the OSC by failing to respond in any way. Thus, the Court will order Ms. Truitt to appear in person to show cause why she and/or Plaintiff should not be (1) sanctioned under the Court’s inherent authority, (2) held in civil and/or criminal contempt, and/or (3) required to pay certain of Defendants’ expenses under Fed. R. Civ. P. 37(f). Further, Ms. Truitt must show cause why (4) this action should not be dismissed with prejudice for lack of prosecution under Fed. R. Civ. P. 41(b).

Background

Plaintiff’s case was removed to federal court on November 8, 2019. [Doc. 1]. Shortly thereafter, the Court set a telephonic status conference. [Doc. 6]. Plaintiff’s counsel appeared at the conference as scheduled on December 2, 2019. [Doc. 7] at 1. The Court discussed the JSR,

among other things, with counsel. *Id.* The Court also issued its Initial Scheduling Order [Doc. 8] (“ISO”) on December 2, 2019,¹ in which Plaintiff was ordered to “cooperate in preparing a [JSR].” *Id.* at 2. “[F]ollowing the sample JSR available at the Court’s web site,” Plaintiff was ordered “to fill in the blanks for proposed dates.” *Id.* Nevertheless, when Defendants timely filed the JSR, Plaintiff’s portions remained blank. [Doc. 10]. Defendants explained that Plaintiff had failed to provide his portions. *Id.* at 2. Despite the Court’s oral instructions and despite the ISO, Plaintiff’s counsel failed to participate in the JSR. *See* [Docs. 8, 10, 11].

The Court issued an OSC directing Ms. Truitt to explain, no later than January 28, 2020, why sanctions should not be imposed for her failure to participate in the JSR.² [Doc. 11]. The OSC deadline has come and gone, but no response has been filed, nor has any extension of time been requested. Ms. Truitt has violated the OSC by failing to respond.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that attorney Lauren E.A. Truitt must appear in person on **February 14, 2020, at 1:30 p.m.** in the Picacho Courtroom at 100 North Church Street in Las Cruces, New Mexico, to show cause why she and/or Plaintiff should not be (1) sanctioned under the Court’s inherent authority, (2) held in civil and/or criminal contempt, and/or (3) required to pay certain of Defendants’ expenses under Fed. R. Civ. P. 37(f). Further, Ms. Truitt must show cause why (4) this action should not be dismissed with prejudice for lack of prosecution under Fed. R. Civ. P. 41(b).

¹ The notice of electronic filing for the ISO confirms that it was served on Plaintiff’s counsel, Ms. Truitt, at lauren@truittlegalgroup.com on December 2, 2019.

² The notice of electronic filing for the OSC confirms that it was served on Plaintiff’s counsel, Ms. Truitt, at lauren@truittlegalgroup.com on January 23, 2020.

Defendants' counsel need not appear. If they choose to appear, they may appear telephonically. Defendants' counsel should notify the Court no later than 5:00 p.m. on February 12, 2020, if they wish to appear telephonically.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge